

FEB 11 1976

William H. Stevenson  
Regional Director  
U.S. Department of Commerce  
National Oceanic and Atmospheric  
Administration  
National Marine Fisheries Service  
Duval Building  
9450 Gandy Boulevard  
St. Petersburg, Florida 33702

Re: McGinnes Industrial Maintenance Corporation  
NPDES Permit No. TX0004910

Dear Mr. Stevenson:

Your comments of January 15, 1976 on the above referenced NPDES permit are appreciated and they have been thoroughly reviewed by my staff.

Since we share your concern for the wetlands, the proposed permit was readily reviewed. As a result of this review an additional paragraph based on your comments has been added. This was done to avoid any possible appearance of "implied sanctions" in the permit condoning destruction of the wetlands and circumvention of the controlling laws. It is the belief of our staff that with the addition of this paragraph your concerns are adequately met by the permit as drafted. The new paragraph to be added is:

Nothing in this permit shall be construed to authorize the construction of any levees, dikes, or other structures in waters of the United States as defined by 33 CFR 209.120.

More specifically, the effluent discharge (001) from McGinnes is discharged to the receiving waters named the Intercoastal Waterway which is not part of the coastal wetlands areas.

A permit is required under Section 404 of P.L. 92-500 from the Corps of Engineers for the discharge of dredged or fill material into navigable waters of the United States. Therefore, any future dikes constructed in the wetlands or other navigable waters will require a permit from the Corps of Engineers.

6AEE:Rasmussen:1983:bs1/14:1983:2/9/76

## CONCURRENCES

SYMBOL	6AEE 2-9-76	6AEE 2-9-76	6AEE 2-10-76	6AEE 2-9-76	6AEE 2-10-76			
SURNAME	Hudson	Rasmussen	Dunsavage	Stiebing	Harrison			
DATE	2-9-76	2-9-76	2-10-76	2-9-76	2-10-76			

Part III Other Requirements 2. existence in NPDES Permit No. TX0004910 was to provide assurance that inundation of the disposal ponds would not take place during hurricane conditions reflecting the 50-year storm. Maintenance of the levees against erosion falls under Part II A. Management Requirement Number 3. entitled Facilities Operation which requires "the permittee to maintain in good working order and operate efficiently all treatment or control facilities or systems".

No evidence has been presented to the Environmental Protection Agency that indicates a seepage occurring through the levees or substrata of the McGinnes treatment ponds. If such seepage occurs and is noted by our Surveillance and Analysis staff or the State of Texas during a facility inspection, enforcement action to secure compliance is authorized by Public Law 92-500. It must be noted that the Texas Water Quality Board requires McGinnes to monitor 5 test wells around the treatment ponds.

I trust this response has addressed each of your concerns adequately. Thank you for your cooperation and concern.

Sincerely yours,

/s/ J. PAUL COMOLA  
for John C. White  
Regional Administrator

cc: Honorable B. Eckhardt  
Congressman